IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 08-06-2007

CORAM:

THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

WRIT PETITION NO.8279 of 2000

1.S.Kodalingam
2.Smt.V.Kanniammal .. Petitioners

Versus

1.The Zonal Manager
Food Corporation of India
No.2, Haddows Road
Chennai - 6

2.The Senior Regional Manager
Food Corporation of India
5/54, Greams Road
Thousand Lights
Chennai - 6

3.The District Manager
Food Corporation of India
23-B Beach Road
Tuticorin. .. Respondents

For Petitioner :: Mr.S.Srinivasan
For Respondent :: Mr.A.S.Thambuswamy

Prayer: Writ Petition is filed under Article 226 of The Constitution of India for the relief of issuance of a writ of certiorarified mandamus to call for the records in office order Estt.32(8)/95-MISC dated 17.4.2000 and order in Estt.32(8)/95-MIS dated 20.4.2000 passed by the District Manager, Food Corporation of India, Thuthukkudi, the third respondent herein and quash the same as illegal, arbitrary, ultra vires, unreasonable, against the rules and principles of natural justice and thereby direct the respondents herein to reinstate the petitioners into service and to regularise their service from the date of their initial appointment into service with all consequential and other monetary benefits.

ORDER

This writ petition is filed against the office order of the third respondent dated 17.4.2000 and the consequential sanction order passed by the third respondent dated 20.4.2000. Under the said orders, the petitioners, who were working in the respondent Food Corporation of India as part time scavengers on daily rated basis were terminated from service

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with effect from 17.4.2000 stating that their retrenchment compensation would be paid as per the rules.

2. It is seen from the sanction order dated 20.4.2000, which is also under challenge that the third respondent has quantified the amount of retrenchment compensation due to the petitioners as per Section 25-F of the Industrial Disputes Act, 1947, directing the Assistant Manager - Accounts to issue cheques in respect of the said amount in favour of the petitioners.

3. The ground of attack against the impugned order is that the petitioners have been working from 1986, which fact however has been disputed by the respondents in their counter affidavit stating that the petitioners were employed only from 1990 onwards.

4. The contention raised by the learned counsel for the petitioners that the requirement of Section 25-F has not been complied with has no basis. As it is stated in the impugned order itself, the third respondent has clearly quantified the amount of retrenchment compensation due to the petitioners and the same has been directed to be disbursed. Even though the petitioners would dispute the receipt of such compensation, it is seen in the counter affidavit on behalf of the respondents that the petitioners have refused to receive the said retrenchment compensation.

5. It remains as a matter of fact that in spite of the impugned order, which was passed in April, 2000, the petitioners continued to be the employees of the respondent Corporation in the same manner as part time scavengers on daily rated basis. Based on the interim order passed by this Court, the petitioners have continued their service in the respondent Corporation even today and it is also not in dispute that the petitioners continued to be in employment of the respondent Corporation.

6. In view of the above said factual position, without going into the issue as to whether Section 25-F of the Industrial Disputes Act was followed by the Food Corporation of India while passing the impugned order, the writ petition is disposed of by setting aside the impugned orders passed by the third respondent dated 17.4.2000 and the subsequent order dated 20.4.2000, however with liberty to the respondents to follow the provisions of Section 25-F of the Industrial Disputes Act in respect of the petitioner, if they are so advised.

7. The writ petition stands ordered in the above terms. However, there shall be no order as to costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

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1 cc To Mr.S.Srinivasan, Advocate, SR.33036.
1 cc To Mr.A.S.Thambuswamy, Advocate, SR.33023.

W.P.NO.8279 of 2000

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RVL 14.06.2007

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